

CTA

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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SPECIAL

August 18, 1983

File: Legislation General

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

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SUBJECT: Proposed written testimony (to be submitted for the record) by John Byrne, Director of Federal Register on annual compilation of Privacy Act Issuances

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than 4:00 P.M.
FRIDAY, AUGUST 26, 1983.

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.

*Per Em: Telephoned Branden
3:30 pm & relayed "no objection".
Knd*

Reg/ In for
James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: C. Wirtz

R. Veeder

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(PROPOSED TESTIMONY)

BY

JOHN E. BYRNE

DIRECTOR OF THE FEDERAL REGISTER

HEARING ON PRIVACY

SUBCOMMITTEE ON GOVERNMENT INFORMATION, JUSTICE AND AGRICULTURE

COMMITTEE ON GOVERNMENT OPERATIONS

HOUSE OF REPRESENTATIVES

JUNE 7-8, 1983

Thank you for this opportunity to submit written testimony setting forth our views on the annual compilation of Privacy Act Issuances prepared and published by the Office of the Federal Register (OFR) of the General Services Administration's National Archives and Records Service.

As you know from your exchange of correspondence with Archivist of the United States Robert M. Warner, we have been concerned over the amount of resources consumed in the publication of this compilation when compared with its limited use.

There is, of course, no doubt under current law of the responsibility of the Office of the Federal Register to publish a Privacy compilation.

The applicable statute (5 U.S.C. 552a(f)) directs that:

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

Since 1976 the Office of the Federal Register has published the compilation containing agencies' privacy rules and detailed information on each system of records. The annual publication now runs to some 3,000 pages

in five books. The Privacy volumes, though, are little used. A total of but 179 books of the 5-volume 1979 Privacy Act Issuances was sold by the Superintendent of Documents of the Government Printing Office (GPO). One volume sold only 14 copies. These low sales caused the Superintendent of Documents to decline to stock subsequent editions of the publication. Since that time copies have been made available to Congress, Depository Libraries, and Federal Information Centers.

Although figures on usage through these channels are not available, a general lack of public interest in the compilation is clearly indicated by the low sales figures for the last edition sold and the very few requests received by OFR for any of the books since GPO ceased stocking them.

Although the compilation is little used, the costs of preparing and publishing it are not inconsequential. The last edition for which costs are available is the 1980 compilation. GPO's costs were \$96,350 and OFR's personnel costs were \$39,185--a total of \$135,535. With a press run of 2,289, that came to about \$59 a set. Since the Superintendent of Documents does not stock the compilation, no costs were recovered through public sale.

Another concern about the compilation as presently constituted, in addition to its low usage and substantial cost, is the amount of editorial

work it entails. Because of reductions in personnel resources, OFR has been unable to compile and edit the volumes in a timely manner. The publication schedule has fallen behind: only four of the five 1981 volumes have been published to date.

For the reasons cited, we would hope that the subcommittee would favor amending the statutory requirement which continues to necessitate publication of a compilation of massive and intimidating size despite a record of slight use.

Elimination of the compilation would be one solution. This would take cognizance of the unfavorable ratio between costs and use of the compilation. Moreover, it would recognize that the annual compilations published since 1976 have focussed attention--at least of those who are interested--on agencies' systems of records and how to gain access to them; that the basic systems of records of the various agencies have been made a matter of record, repeatedly, since 1976, and that there is little deviation in them year-by-year; that inquirers can--and do--directly contact agencies maintaining specific records systems in which they are interested and obtain desired information about them; that new systems of records and revisions of old ones can be found in the daily Federal Register; and that agencies' privacy regulations are readily available in the Federal Register and Code of Federal Regulations (CFR).

We acknowledge, however, that valid arguments can be made against elimination of the compilation. The publication does gather together in one place the Government's scattered information relating to Privacy, and it does serve a public notice function. These positive attributes should be weighed against the cost and lack of use of the compilation.

If the requirement for publishing the compilation is not eliminated, we suggest that the statute be amended to scale down the compilation's massive size and thereby reduce the burdens of publishing a product which experience has demonstrated is not widely used.

The requirement for the compilation could be amended so that listings for individual record systems could be reduced from the present numerous elements to just three: the name and location of the system; the principal purpose of the system; and the broad category of individuals covered. Additionally, each agency would provide the name and address of the agency contact point for further information about all its records systems and procedures for gaining access to them. This would appear once in the compilation under the agency heading.

Under the above proposal, each agency would send to the Office of the Federal Register after the close of the calendar year this listing of records systems with the three data elements and the general agency contact point for privacy matters. OFR would compile the agency submissions and issue them in the compilation which would also carry

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an OFR-produced index to agency Privacy rules and regulations in the CFR. The multi-volumed compilation would be sharply cut back--perhaps to one volume. The publication could be issued expeditiously. Users could contact the appropriate agency for further information about a records system in which they were interested. Since each agency would continue to be required to maintain detailed information about each records system, it could answer the inquirers' questions and even provide them with inexpensive copies of the relevant information requested.

There would be no change in the provision in Public Law 97-75, the "Congressional Reports Elimination Act of 1982," which directed agencies to publish in the Federal Register notices of systems of records upon their establishment or revision. This provision relieved agencies of the burden of publishing annually in the Federal Register notices covering each of their systems of records.

We would be pleased to develop a draft of proposed legislation which would make the changes in the compilation which we have outlined.

There are, of course, other possibilities.

The requirement, dropped last year, for full-text annual publication by agencies in the Federal Register of notices of systems of records could be restored--publishing the documents in the same issue to substitute for the present compilation. But the agencies would be paying to print

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an amount of detailed information which does not appear to be necessary.

The compilation could be published biennially rather than annually. But the amount of editorial work would not appreciably decrease because the data would have to be updated for the off year as well as the publication year.

OFR could publish a basic compilation every five years and "pocket part" updates, possibly cumulative, annually in the other years. But pocket parts are cumbersome and confusing to public users, and the net savings in editorial resources is apt to be slight.

Thank you for this opportunity to offer our views on this subject, Mr. Chairman. We would be happy to consult further with the subcommittee staff concerning the future of the compilation.

In the meantime, we have adopted your suggestion of last spring that for reasons of timeliness and cost OFR go directly from a 1981 privacy compilation to a combined 1982/83 edition. We are now proceeding on that basis.